APPEAL NO. 020520
FILED APRIL 12, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 19, 2002. The hearing officer resolved the disputed issues before her by determining that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. The claimant appealed on sufficiency grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that he sustained a compensable mid to low back injury while moving office furniture at the direction of his supervisor on _____. The claimant acknowledged that he was terminated on the evening of _____; that he did not report the injury to his supervisor until the next day; and that he was involved in a minor motor vehicle accident (MVA) on October 19, 2001, which required a trip to the hospital. In support of his position that he did sustain a compensable injury and did have disability, the claimant introduced medical records from his treating doctor and a carrier-selected required medical examination (RME) doctor, both of whom believed that the claimant did sustain a compensable injury. The carrier introduced evidence to support its position that the claimant did not sustain a compensable injury, did not have disability, and did not inform his treating doctor or the RME doctor of the October 19, 2001, MVA.

The claimant had the burden to prove that he was injured in the course and scope of his employment. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). An appellate body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. Our review of the record reveals that the hearing officer's injury determination is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb the determination that the claimant did not sustain a compensable injury on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not

sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge